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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,449	06/23/2003	Stanford L. Loveman	ALSZ 2 00002	9746
7590	06/01/2004		EXAMINER	
Matthew P. Dugan Fay, Sharpe, Fagan, Minnich & McKee, LLP 7th Floor 1100 Superior Avenue Cleveland, OH 44114-2518				MENDIRATTA, VISHU K
		ART UNIT	PAPER NUMBER	3712
DATE MAILED: 06/01/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/601,449	LOVEMAN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Vishu K Mendiratta	3712	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 23 June 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) \_\_\_\_\_ is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date: _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-20 rejected under 35 U.S.C. 101 because the claimed invention lacks patentable utility. The structure of “categories” is unclear. It is unclear how in the claims “the categories” are presented (on a card, board etc.). Also it is not clear how the responses are recorded. The limitation is not tangible in the claims as such. In the absence of a proper playing environment it is not possible to practice a method.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-20 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1,9,14: The structure of “categories” is unclear. It is unclear how in the claims “the categories” are presented (on a card, board etc.). Also it is not clear how the responses are recorded. The limitation is not tangible in the claims as such. In the absence of a proper playing environment it is not possible to practice a method.

Claims 2,3: The terminology is inconsistent with the specification. Category indicators (34) are not less in numbers than categories (32) as can be seen in Fig.2. It is the

"additional indicia" associated with categories (36) that are in lesser numbers than number of categories. The claim is confusing.

Claims 5,6: There is no antecedent basis for "two or more teams" in the claim. Claim 1 says "one or more teams" that is not same as "two or more teams".

**These are some of the examples as given above. All claims are required to be reviewed and corrected.**

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

5. Claims 1-3,5-8 rejected under 35 U.S.C. 102(a) as being anticipated by Forrest (6267379).

Claim 1,5,6,7,8: Forrest teaches providing and selecting categories (8:17-20) by a plurality of teams each having at least two players (110a, 110b, 110c), recording of answers by players (5:65-67), ranking of answers (8:23-26) and determining total score (8:52-54).

Claim 2: Forrest displays category indicators in the text box (7:17-18).

Claim 3: Forrest teaches selection device for category selection (8:31-36).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 1- 9,12-18,20 rejected under 35 U.S.C. 103(a) as being unpatentable over Carrera (4273337).

Claim 1-4,9,14,17,18: Carrera teaches providing categories (90,91,92), category indicators (1 move, 2 move, 3 move questions) and selecting categories (3:45-52) by a plurality of teams each having at least two players (10:34-36), recording of answers by players (11:35-41), matching answers (10:38-41) and determining total score (Fig.5). Carrera teaches a recording medium (Fig.5).

Carrera teaches all limitations except that it does not expressly indicate ranking and placing in order all responses as in claim 1,14,17,18. When a parent and a child confer to come to a final response, it is common knowledge that the two will discuss which answer is the best answer inherently and informally ranking and ordering them. In order to make a final response, it would have been obvious to rank and order the final response for winning purpose.

One of ordinary skill in art at the time the invention was made would have been obvious to rank and order responses to determine final response.

Applicant might argue that as in claim 4 the cited reference does not teach a die for selecting categories. Examiner takes the position that a die is an art recognized chance

selection device and functionally the same as a spinner. In order to create a variation, it would have been obvious to modify Carrera to use a die for selecting categories without changing the spirit of invention.

One of ordinary skill in art at the time the invention was made would have suggested using a die instead of spinner for similar function.

Claims 5-7: Limiting number players or number of teams is a matter of personal choice. Whereas some players like to play games with a smaller group others like a larger group participation. Such variations do not change a method of playing a game.

One of ordinary skill in art at the time the invention was made would have suggested playing a game allowing a large of small number of players/ teams.

Claim 8: Carrera score sheets (Fig.5) demonstrate a predetermined number of peg-holes (81) demonstrating a predetermined number of points.

Claim 12: Carrera teaches 1 move, 2 move,3 move choices tat can be interpreted as multipliers.

Claim 13,20: Carrera teaches repeating of selecting categories upon landing on a spinner space (10-3-7).

Claim 15-16: Carrera teaches a path with movement spaces (10), advancing playing pieces 9 (Fig.2).

#### ***Allowable Subject Matter***

8. Claims 10,11,19 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vishu K Mendiratta whose telephone number is (703) 306-5695. The examiner can normally be reached on Mon-Fri 8AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H Banks can be reached on (703) 308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Vishu K Mendiratta  
Primary Examiner  
Art Unit 3712

VKM  
May 27, 2004